REMARKS

Applicant respectfully requests reconsideration. Claims 14, 15 and 18-28 were previously pending in this application. No new matter has been added.

Improper Finality of Rejection

Applicant respectfully requests reconsideration of the finality of the Office Action. The rejection made by the Examiner in the Office Action uses the Brooke patent (US 6,328,992) as the primary reference with the Travis patent (US 6,541,510) and the Turner et al. (J Clin Pharmacol. 1981; 21:283S-291S) as secondary references.

In contrast, the rejection made in the prior Office Action was made using the Travis patent as the primary reference with Turner article and Brooke patent as secondary references.

Thus the rejection in the instant Office Action differs from the rejection made in the prior Office Action, and accordingly the instant Office Action should not be final.

The Examiner indicated on page 3 of the Office Action that "Because of Applicants amendments [to] the claims, the following *modified rejections* are being made." It is Applicant's contention that the claim amendments that were made did not provoke the modification of the rejection. The amendment to claim 14 made in response to the prior Office Action was made to explicitly recite the feature of Formula 1 as defined in claim 1, which previously was recited by reference to claim 1. Therefore there was no reason for the rejection of claim 14 to have been "modified" or changed in any way based on the amendment to claim 14. Accordingly, the claim amendments did not necessitate the "modification" of the rejection, and therefore the finality of the rejection should be withdrawn.

Rejections Under 35 U.S.C. § 103

The Examiner rejected claims 14-15 and 18-28 under 35 U.S.C. § 103(a) as being unpatentable over Brooke et al. (U.S. Patent 6,328,992) in view of Travis (U.S. Patent 6,541,510) and Turner et al. (J. Clin. Pharmacol. 1981; 21:283S-291S). Applicant respectfully traverses the rejection.

The Examiner admits on page 4 of the Office Action that Brooke does not teach a compound of Formula 1 as recited in claim 1. The Examiner asserts on pages 4-5 of the Office Action that the skilled person would have been motivated to use the cannabichromene compound as taught by Travis and Turner to treat depression.

Applicant respectfully disagrees with both the reasoning of the Examiner and the conclusion reached by the Examiner. The Brooke patent discloses methods for transdermal delivery of cannabis. The Brooke patent provides no specific disclosure of the use of cannabichromene for any given medical indication. Brooke merely provides a list of conditions for which cannabis has been used. Therefore Brooke lacks an element of the instant invention as claimed.

The Travis and Turner references do not provide any teaching that cannabichromene would be useful in the treatment of mood disorders. Therefore, the Travis and Turner references do not remedy the deficiencies of Brooke.

Moreover, Applicant respectfully disagrees that the Examiner has provided a sufficient motivation to combine the Brooke, Travis and Turner references. The Examiner states that the skilled person would have been motivated to use cannabichromene compositions of Travis and Turner to treat depression "because Brooke et al. teaches that cannabichromenes show medical use in treating depression." (Office Action at page 5) That statement is incorrect. Brooke states that the medical uses of cannabis include a variety of diseases. Brooke does not teach that

cannabichromene is useful for treating any of the diseases listed at col. 1, lines 23-33. In fact the working examples in Brooke do not make use of cannabichromene.

Thus Brooke does not provide motivation to the skilled person to use cannabichromene in the treatment of mood disorders. Furthermore, the skilled person would not have an expectation of success in using cannabichromene to treat mood disorders based on the disclosure of the combination of references.

Accordingly, the combination of the Brooke, Travis and Turner references does not provide all of the elements of the claimed invention and no motivation has been shown for making the combination. Therefore, withdrawal of the rejection of claims 14-15 and 18-28 under 35 U.S.C. § 103 is respectfully requested.

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
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Docket No.: B0192.70062US00
Date: April 7, 2008
X04/05/08x